

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK**



January 28, 2005

CLERK'S NOTICE 05 - 01

**General Order 2005-01
Motions Initiating Contested Matters**

General Order 2005-01 will become effective on February 01, 2005. This order is being entered as a judicial directive authorizing the use of Local Bankruptcy Rule (L.B.R.) 9007.1 for motions in contested matters, not otherwise governed by the Federal Rules of Bankruptcy Procedure for which the moving party does not anticipate opposition. Notwithstanding L.B.R. 9007.1 and L.B.R. 9014.1, and except as otherwise directed by the court, negative notice language in substantially the form set forth in L.B.R. 9007.1(b) may be used when filing a motion that initiates a contested matter under the Federal Rules of Bankruptcy Procedure.

1. General Order 2005-01 ***excludes the use of L.B.R. 9007.1, without court order, from certain contested matters.*** Negative notice language requiring parties to respond ***may not*** be used without prior court order for the following types of motions:
 - (a) Motions to dismiss or convert filed by a party in interest other than the debtor;
 - (b) Motions for relief from the automatic stay;
 - (c) Motions for the use of cash collateral;
 - (d) Motions for financing authority;
 - (e) Objections to claims in Chapter 11 cases; and
 - (f) Motions to assume or assume and assign executory contracts and unexpired leases.
2. The response required for motions for relief from the automatic stay is described in L.B.R. 4001.1(b). The exceptions for lift stay, cash collateral and financing motions do not apply to motions under Fed. R. Bankr. P. 4001(d).
3. For matters that require court approval, negative notice language in substantially the form

set forth in the *Negative Notice Regarding Contested Matter* form (BTXN 173) shall be used following the entry of an order authorizing the use of negative notice. This form can be found on the court's website <http://www.txnb.uscourts.gov/forms/BTXN173.php>.

4. For other excepted motions and objections, the moving party may:
 - (a) request that the court order an answer or response to the motion or objection, **or**
 - (b) file and serve the motion or objection without negative notice language and obtain a hearing. The motion must be served pursuant to Fed R. Bankr. P. 7004 and, for objections to claims, Rule 3007.
5. If a moving party files an excepted motion or objection, other than a motion for relief from the automatic stay, and has neither noticed the motion or objection for hearing nor requested that the court order an answer or response, the court will enter an order setting a hearing and requiring the moving party to serve the order.
6. Notwithstanding L.B.R. 9007.1, except as the court may otherwise order, a motion which initiates a contested matter and contains negative notice language needs to be served only upon the following:
 - (a) debtor and debtor's attorney;
 - (b) the office of the U.S. trustee;
 - (c) any trustee and the trustee's attorney;
 - (d) the member of any official committee, or the attorney for any official committee if an attorney has been employed; or, if there is no committee, the twenty (20) largest unsecured creditors;
 - (e) any party that has requested notice pursuant to Fed. R. Bankr. P. 2002(i);
 - (f) any other party named on a court-approved alternative service list; and
 - (g) for relief as to specific entities, the entity affected.

For further guidance on General Order 2005-01, see related Practice Pointers on the court's website <http://www.txnb.uscourts.gov/judges/pointers/motionsInitiatingContestedMatters.jsp>.

FOR THE COURT
Tawana C. Marshall
Clerk of Court